

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02919-CKK**

DEMOCRACY FORWARD FOUNDATION v. U.S.
DEPARTMENT OF STATE
Assigned to: Judge Colleen Kollar-Kotelly
Cause: 05:552 Freedom of Information Act

Date Filed: 12/12/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**DEMOCRACY FORWARD
FOUNDATION**

represented by **John T. Lewis , III**
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FOUNDATION
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ATTORNEY TO BE NOTICED

V.

Defendant

U.S. DEPARTMENT OF STATE

represented by **Daniel Patrick Schaefer**
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TERMINATED: 02/01/2019

Date Filed	#	Docket Text
12/12/2018	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-5835820) filed by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Lewis, John) (Entered: 12/12/2018)
12/12/2018	<u>2</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by DEMOCRACY FORWARD FOUNDATION (Lewis, John) (Entered: 12/12/2018)
12/14/2018		Case Assigned to Judge Colleen Kollar-Kotelly. (zef,) (Entered: 12/14/2018)
12/14/2018	<u>3</u>	SUMMONS (3) Issued Electronically as to U.S. DEPARTMENT OF STATE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zef,) (Entered: 12/14/2018)

12/26/2018	<u>4</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 12/26/2018. (DM) (Entered: 12/26/2018)
01/02/2019	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/19/2018. (Answer due for ALL FEDERAL DEFENDANTS by 1/18/2019.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/19/18., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF STATE served on 12/19/2018 (Attachments: # <u>1</u> Declaration)(Lewis, John) (Entered: 01/02/2019)
01/18/2019	<u>6</u>	MOTION to Stay , MOTION for Extension of Time to <i>All Deadlines</i> by U.S. DEPARTMENT OF STATE (Pfaffenroth, Peter) (Entered: 01/18/2019)
01/18/2019	<u>7</u>	Memorandum in opposition to re <u>6</u> MOTION to Stay MOTION for Extension of Time to <i>All Deadlines</i> filed by DEMOCRACY FORWARD FOUNDATION. (Lewis, John) (Entered: 01/18/2019)
01/18/2019		MINUTE ORDER: The Court is in receipt of Defendant's <u>6</u> Motion to Stay and Plaintiff's <u>7</u> Opposition to Defendant's Motion to Stay. The Court ORDERS Defendant to file a Response to Plaintiff's Opposition by JANUARY 22, 2019. Defendant's Response should also indicate what progress, if any, has been made on processing Plaintiff's FOIA request. Signed by Judge Colleen Kollar-Kotelly on 1/18/2019. (lcckk3) (Entered: 01/18/2019)
01/22/2019		Set/Reset Deadlines: Defendant's Response to Plaintiff's Opposition due by 1/22/2019. (kt) (Entered: 01/22/2019)
01/22/2019	<u>8</u>	REPLY to opposition to motion re <u>6</u> MOTION to Stay MOTION for Extension of Time to <i>All Deadlines</i> filed by U.S. DEPARTMENT OF STATE. (Schaefer, Daniel) (Entered: 01/22/2019)
01/23/2019		MINUTE ORDER: The Court is in receipt of Defendant's <u>6</u> Motion to Stay, Plaintiff's <u>7</u> Opposition to that motion, and Defendant's <u>8</u> Reply in support of its motion. The Court notes that two agencies are at issue in this case, both of which do not have appropriations and have many workers who are currently on unpaid furlough. The first agency is the Department of State, the agency which would be required to process Plaintiff's FOIA request and, if appropriate, produce the documents. Based on the current record, it is unclear whether or not the Department of State is in a position to process Plaintiff's FOIA request, especially given that it appears that Plaintiff did not request expedited processing. Defendant reports that most personnel operations will resume between January 20, 2019 and February 2, 2019, but it is unclear how this will affect FOIA processing. The second agency at issue is the Department of Justice, whose employees are furloughed and working without pay. Based on the record before the Court, the Court GRANTS Defendant's Motion for a Stay contingent on a Status Report being filed by Defendant on or before FEBRUARY 1, 2019, notifying the Court as to whether or not FOIA requests are being processed by the Department of State and, if so, whether or not Plaintiff's FOIA request has been, can be, or will be processed. Signed by Judge Colleen Kollar-Kotelly on 1/23/2019. (lcckk3) (Entered: 01/23/2019)
01/23/2019		Set/Reset Deadlines: Defendant's Status Report due by 2/1/2019, notifying the Court as to whether or not FOIA requests are being processed by the Department of State and, if so, whether or not Plaintiff's FOIA request has been, can be, or will be processed. (dot) (Entered: 01/24/2019)
01/31/2019	<u>9</u>	NOTICE of Restored Government Funding and Proposed Schedule by U.S. DEPARTMENT OF STATE (Schaefer, Daniel) (Entered: 01/31/2019)
01/31/2019		MINUTE ORDER. The Court is in receipt of Defendant's <u>9</u> Status Report. On January 23, 2019, the Court stayed this case due to a lapse in appropriations to the Department of Justice. Defendant reports that appropriations have now been restored. Accordingly, the Court ORDERS the stay be lifted. The Court further ORDERS Defendant to file an Answer to Plaintiff's complaint by FEBRUARY 8, 2019, and the parties to file a joint meet and confer report addressing the status of processing Plaintiff's FOIA request by FEBRUARY 28, 2019. Signed by Judge Colleen Kollar-Kotelly on 1/31/2019.

		(lcckk3) (Entered: 01/31/2019)
01/31/2019		Set/Reset Deadlines: Answer to <u>1</u> due by 2/8/2019. (dot) (Entered: 02/01/2019)
02/01/2019	<u>10</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Daniel Patrick Schaefer on behalf of U.S. DEPARTMENT OF STATE Substituting for attorney Peter C. Pfaffenroth (Schaefer, Daniel) (Entered: 02/01/2019)
02/08/2019	<u>11</u>	ANSWER to Complaint by U.S. DEPARTMENT OF STATE.(Schaefer, Daniel) (Entered: 02/08/2019)
02/08/2019	<u>12</u>	ORDER. Signed by Judge Colleen Kollar-Kotelly on 2/8/2019. (lcckk3) (Entered: 02/08/2019)
02/08/2019		Set/Reset Deadlines: Joint Meet & Confer Statement due by 3/1/2019. (dot) (Entered: 02/11/2019)
03/01/2019	<u>13</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Text of Proposed Order)(Schaefer, Daniel) (Entered: 03/01/2019)
03/04/2019		MINUTE ORDER. The Court is in receipt of the <u>13</u> Status Report. Defendant reports that its search in response to Plaintiff's FOIA request is ongoing and is anticipated to be completed within the next thirty days. The court ORDERS the parties to file another Joint Status Report on or before April 15, 2019, updating the Court on the status or results of Defendant's search and proposing a schedule for any processing and further proceedings. Signed by Judge Colleen Kollar-Kotelly on 3/4/2019. (lcckk3) (Entered: 03/04/2019)
03/04/2019		Set/Reset Deadlines: Joint Status Report due by 4/15/2019, updating the Court on the status or results of Defendant's search and proposing a schedule for any processing and further proceedings. (dot) (Entered: 03/04/2019)
04/15/2019	<u>14</u>	Joint STATUS REPORT by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Text of Proposed Order)(Lewis, John) (Entered: 04/15/2019)
04/15/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>14</u> Status Report. Defendant reports that the U.S. Department of State has completed an initial search for documents responsive to Plaintiff's FOIA request and communicated the results to Plaintiff. Approximately 12,000 pages of potentially responsive records were located. The parties agree that Defendant will issue a first production on April 24, 2019 and a second production on May 24, 2019. The parties will continue to attempt to narrow number of records and are negotiating a processing rate. The Court ORDERS the parties to file a Joint Status Report informing the Court on the status of Defendant's response to Plaintiff's FOIA request by MAY 30, 2019. Signed by Judge Colleen Kollar-Kotelly on 4/15/2019. (lcckk3) (Entered: 04/15/2019)
04/15/2019		Set/Reset Deadlines: Joint Status Report due by 5/30/2019. informing the Court on the status of Defendant's response to Plaintiff's FOIA request. (dot) (Entered: 04/16/2019)
05/30/2019	<u>15</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Text of Proposed Order – Defendant's, # <u>2</u> Text of Proposed Order – Plaintiff's)(Schaefer, Daniel) (Entered: 05/30/2019)
06/01/2019		MINUTE ORDER: The Court is in receipt of the parties' <u>15</u> Joint Status Report. Plaintiff and the Defendant report that Defendant's search for Plaintiff's FOIA request has identified approximately 24,000 potentially responsive pages. The parties disagree on a timeline for processing and releasing the responsive documents. Defendant proposes that it make monthly rolling productions, with 300 pages reviewed per month, or that it review 500 pages every six weeks. Plaintiff insists that this production schedule is too slow. Plaintiff proposes that more pages be reviewed each month. Plaintiff points out that Defendant's proposed schedule would result in full production taking over six years. Instead, Plaintiff proposes that Defendant make monthly rolling productions, with 1,000 pages reviewed per month. It appears to the Court that Plaintiff failed to request expedited processing in its FOIA request, which means Plaintiff's request is in a queue where the processing of records will be accomplished at a slower rate. The Court ORDERS Defendant to file a Status Report by JUNE 21, 2019 informing the Court how many pending FOIA requests are currently before the Department and where Plaintiff's request falls in the queue of other requests. This

		information will assist the Court in determining whether 300 pages per month or 500 pages every six weeks is a reasonable schedule. The Court further ORDERS that Defendant's June 21, 2019 Status Report include a categorization of the types of documents that Defendant has identified as potentially responsive to Plaintiff's request. Plaintiff can use this information to prioritize Defendant's document processing and release, such as leaving to the last release public documents. Signed by Judge Colleen Kollar-Kotelly on 6/1/2019. (lcckk3) (Entered: 06/01/2019)
06/03/2019		Set/Reset Deadlines: Defendant's Status Report due by 6/21/2019. (dot) (Entered: 06/04/2019)
06/20/2019	<u>16</u>	STATUS REPORT by U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Text of Proposed Order)(Schaefer, Daniel) (Entered: 06/20/2019)
07/26/2019	<u>17</u>	Joint STATUS REPORT by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Text of Proposed Order)(Lewis, John) (Entered: 07/26/2019)
07/29/2019		MINUTE ORDER: The Court is in receipt of the parties' <u>17</u> Joint Status Report. The parties report that, based on the categories of responsive documents outlined in Defendant's <u>16</u> Status Report, the parties have agreed to exclude from the production several categories of responsive records. The parties continue to work collaboratively to identify more ways that production can be narrowed and streamlined. The Court ORDERS the parties to file another Joint Status Report by SEPTEMBER 23, 2019. That Joint Status Report should identify the number of documents left to be processed, after any intervening processing and narrowing. With this information, the Court will better be able to set a processing schedule if the parties remain unable to agree on one. Signed by Judge Colleen Kollar-Kotelly on 7-29-2019. (lcckk3) (Entered: 07/29/2019)
07/29/2019		Set/Reset Deadlines: Joint Status Report due by 9/23/2019. (dot) (Entered: 07/29/2019)
09/23/2019	<u>18</u>	Joint STATUS REPORT by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Text of Proposed Order)(Lewis, John) (Entered: 09/23/2019)
09/23/2019		MINUTE ORDER: The Court is in receipt of the parties' <u>18</u> Joint Status Report. The parties report that, after implementing the narrowing parameters discussed by the parties, Defendant has approximately 35,000 pages of potentially responsive records left to process. Defendant will provide interim productions on October 23, 2019 and November 22, 2019. The Court ORDERS that the parties file another Joint Status Report on DECEMBER 1, 2019, updating the Court on Defendant's response to Plaintiff's FOIA request. The parties are further ORDERED to file additional Joint Status Reports every 60 days thereafter. The parties are also free to file Joint Status Reports between the filing deadlines if issues arise that require the Court's attention. Signed by Judge Colleen Kollar-Kotelly on 9-23-2019. (lcckk3) (Entered: 09/23/2019)